

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

KERRY-ANNE OSCAR

Plaintiff,

CIVIL ACTION NO.
JURY TRIAL DEMAND

v.

CVR ASSOCIATES INC.

COMPLAINT FOR DAMAGES COMES NOW, Plaintiff Kerry-Anne Oscar (hereinafter “Plaintiff”), by and through her undersigned counsel, and files this Complaint for Damages against Defendant CVR ASSOCIATES INC. (hereinafter “Defendant”), and respectfully shows this Court as follows:

NATURE OF COMPLAINT

Plaintiff brings this action to obtain full and complete relief and to redress the unlawful employment practices described herein.

2. This action seeks damages for Defendant’s discrimination on the basis of disability, and failure to provide accommodations to Plaintiff in connection with the same pursuant to the Americans with Disabilities Act, as amended, 42 U.S.C. § 12111 et seq. (hereinafter “ADA”).

JURISDICTION AND VENUE

3. Plaintiff invokes the jurisdiction of this Court pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 2000e-5(f); Plaintiff also invokes this Court's pendant jurisdiction to hear Plaintiff's state law claims.

4. The unlawful employment practices alleged in this Complaint were committed within this District in the State of New Jersey.

5. Therefore, in accordance with 28 U.S.C. § 1391 and 42 U.S.C. §2000(e)- 5(f), venue is appropriate in this Court.

PARTIES

6. Plaintiff is a female citizen of the United States of America, and is subject to the jurisdiction of this Court

7. Defendant is now, and at all times relevant hereto, has been an employer engaged in an industry affecting commerce within the meaning of the ADA and §§701(b), (g) and (h) of Title VII and has employed more than the requisite number of persons for the requisite duration under the ADA and Title VII.

ADMINISTRATIVE PROCEDURES

8. Plaintiff timely filed a charge of discrimination against Defendant Jameson Inns with the Equal Employment Opportunity Commission (EEOC).

9. The EEOC issued a "Notice of Right to Sue" on January 29,2013, entitling an action to be commenced within ninety (90) days of receipt of that notice.

10. This action has been commenced within ninety (90) days of Plaintiff's receipt of the "Notice of Right to Sue."

FACTUAL ALLEGATIONS

11. Defendant hired Plaintiff for employment as a Housing Specialist in 2015.

12. Later during the course of her employment with Defendant, Plaintiff informed her supervisors that she had ongoing condition known as Hyperthyroidism. Plaintiff was diagnosed during the course of her employment.

13. The Hyperthyroidism condition involves an overactive thyroid, which consequently causes the human thyroid gland produces too much of the hormone thyroxine,

14. The symptoms of Hyperthyroidism include among other symptoms, irregular and/or unusually fast heart rate (palpitations), persistent tiredness and weakness, sensitivity to heat, excessive sweating, anxiety, nervousness, irritability, shortness of breath, muscle pain and physical tremors.

13. As a result, Plaintiff requested that she be provided a desk printer; that she be removed from the office heater; be provided a lighter workload; and be provided overtime availability after work hours so that she can accomplish her assigned work with added focus.

14. Defendant failed to accommodate Plaintiff requests and actually increased her workload.

15. Plaintiff on several occasions attempted to discuss the symptoms of her disability with her supervisor, human resources and department director.

16. In response, neither Plaintiff's supervisor, Human Resources or Plaintiff's Department Director did not take any further action to address Plaintiff's complaints regarding her disability and her requests for accommodations for the same.

**CLAIMS FOR RELIEF BASED ON DISCRIMINATION ON ACCOUNT OF AN
ACTUAL OR PERCEIVED DISABILITY AND/OR FAILURE TO ACCOMMODATE IN
VIOLATION OF THE AMERICANS WITH DISABILITIES ACT ("ADA")**

17. Plaintiff re-alleges the preceding paragraphs as if set forth fully herein.

18. Plaintiff has a known history of Hyperthyroidism

19. Plaintiff's medical conditions substantially limits one or more of her major life activities without reasonable accommodation.

20. Defendant failed to adequately perceive that Plaintiff's medical condition limited one or more of her major life activities; failed to regard her as having a disability; and refused to provide Plaintiff with reasonable accommodation even though to do so would not impose an undue hardship.

21. At all times relevant to this action, Plaintiff was a qualified individual with a known or perceived disability as defined in the ADA.

22. Defendant refused to accommodate Plaintiff, and did not engage in the interactive process to determine if an accommodation provided were warranted or adequate.

23. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff has suffered emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other past and future pecuniary and non-pecuniary losses.

24. Defendant, therefore, violated the ADA and is thus liable for the damages resulting from this violation.

Accordingly, Plaintiff seeks compensatory and punitive damages pursuant to 42 U.S.C. § 12117 and 42 U.S.C. § 1981(a).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court GRANT judgment as follows:

- (a) General damages for mental and emotional suffering caused by Defendant's misconduct;
- (b) Punitive damages based on Defendant's willful, malicious, intentional, and deliberate acts, including ratification, condonation and approval of said acts;
- (c) Special damages and/or liquidated damages for lost wages and benefits and prejudgment interest thereon;
- (d) Reasonable attorney's fees and expenses of litigation;
- (e) Trial by jury as to all issues;
- (f) Prejudgment interest at the rate allowed by law;
- (g) Declaratory relief to the effect that Defendant
- (h) All other relief to which he may be entitled.

Respectfully submitted the 5th day of September 2018

HARBATKIN & LEVASSEUR, PA.

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